

### **REMARKS**

This responds to the Office Action dated May 2, 2008.

Claims 1, 3, 4, 6, 8, 10, 12, 14, 22, 25 and 32 are amended, claims 29-31 are canceled, and no new claims are added; as a result, claims 1-28 and 32-33 are now pending in this application.

#### **§103 Rejection of the Claims**

Claims 1-24 and 29-33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kitsukawa et al. (U.S. Patent No. 6,282,713, hereinafter referred to as the Kitsukawa reference) in view of Zigmond et al. (U.S. Patent No. 6,698,020, hereinafter referred to as the Zigmond reference). Claims 25-28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kitsukawa et al. (U.S. Patent No. 6,282,713) in view of Zigmond et al. (U.S. Patent No. 6,698,020) as applied to claim 22 above, and further in view of Matsko (U.S. Patent Application Publication No. 2002/0062254, hereinafter referred to as the Matsko reference). The Applicants respectfully traverse.

Before directly addressing the Examiner's rejections, a brief review of the present invention is desirable. The present invention concerns an interactive order system for television and streaming media. In such television-based systems, the user typically has a very limited input mechanism such as a television remote control with a limited keypad. This is explicitly stated on lines 4 to 8 of page 2 in the written specification of the present application which state "Remote control devices typically do not support direct alphanumeric entry and may require many button entries to provide product selection and ordering information." Thus, it can be very difficult to use such a limited input mechanism to make purchases. In fact most television-remote-based ordering systems that attempt to go beyond television-centric things such as video-on-demand have been a failure. Instead, television-based directing marketing system such as the home shopping network use the telephone or the internet to place orders. Using a television remote to order products is simply too frustrating and difficult such that consumers reject such systems.

To address this vexing issue of placing orders with television remotes, the system of the present application simplifies the problem. After receiving a request for a particular product, the system first determines if there are more than one version of the selected product. (If there is only one version that that one version is presented to the user.) If there is more than one version of the selected product, then the system selects one version from the more than one version using stored user preference information. For example, if the product is a baseball cap, the version selected may be the baseball cap for the local professional sports team. By using stored preference information to limit the user's choice down to a single version of the selected product, the system of the present application presents a very simple and intuitive method of purchasing an item. Thus, the selected version of the product may be purchased with a single button press on the simple television remote. This simple method of purchasing a product can be done with the television remote without frustration.

All of the independent claims of the present invention are directed toward a system that selects one version of a product for display in order to simplify the user input. Specifically, all the independent claims specify that "one version of the product" is selected for the user to purchase based on collected user preference information.

In the Examiner's Office Action, the Examiner noted that the Kitsukawa reference was limited in its teachings in that it does not disclose a system that simplifies the selection of a product version. Specifically, the examiner stated:

Kitsukawa, teaches using user settings and preferences for processing of information and configuration of the system (col.5, line 56-co/6, line 18), **but [is] silent to comparing more than one version of the product with previously collected and stored preference information associated with the viewer.**

This ability to select a product version is a key aspect of the presently claimed invention. For this particular limitation of the present claims, the Examiner cited the Zigmond reference.

Specifically, the examiner stated that:

Zigmond discloses techniques for intelligent **video ad insertion** and further discloses comparing **ads** with previously collected and stored preference information associated with the viewer (figs.1, 4-8, col. 4, line 53 - col. 5, line 14 and col. 9, line 21 - col. 11, line 1+).

Advertisement selection is an art & science that has long been practiced by marketers who use consumer demographics, focus group studies, polling, and other sociological tools for optimally selecting advertisements. Advertisement selection is important since advertising opportunities are limited and thus an advertiser has an incentive to use each advertising opportunity most effectively. In the Zigmond reference, one advertisement must be selected since people cannot listen to the cacophony of two or more simultaneous advertisement audio tracks. Thus, in the Zigmond reference, advertisements are selected carefully.

However, advertisement selection is **not** what is claimed is claimed in the present invention. The present invention is addressed at solving an entirely different problem. The present invention involves simplifying a user interface to enable users to purchase items easily using a simple television remote. To do this, the claimed system uses collected user preference information in order to select a one particular version of a product that may then be purchased by a consumer. Such a system actually is in stark contrast with conventional wisdom since retailers generally attempt to present as many possible product versions to a consumer as possible. For example, shopping malls have succeeded since a very large number of different product versions are present to consumers in a large shopping mall. Similarly, on the internet, Amazon.com has become the most well-known and successful internet retailer by presenting users with millions of different product versions to customers.

Thus, the prior art cited by the examiner fails to disclose the claimed system that selects a particular version of a product using user preference information. Instead, the examiner submits that the present invention is rendered obvious since the Zigmond reference discloses the selection of advertisements using user preference information. But a system that selects an advertisement is not what is claimed by the present application. Advertisement selection is a completely different problem than product selection. Such art can only be viewed by analogy. But even such an analogy fails since the conventional wisdom in product version selection for retailers is to present the largest possible set of product versions to the consumer such that the consumer can select from the multiple different versions. That is what would be obvious to a practitioner and is what Amazon.com does actually do.

Since the all of the independent claims of the present application specify a system that “selects one version of said product”, a feature not disclosed by nor rendered obvious by either

the Kitsukawa reference or the Zigmond reference, the claimed system is allowable over the cited references. The dependent claims, which incorporate all the limitations of the independent claims, are likewise allowable.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (408) 278-4058 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 2 day of September, 2008.

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